IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1750 of 2005

For Approval and Signature:

HON'BLE MR JUSTICE MR SHAH

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1	Whether Reporters of Local Papers may be allowed to see the judgement ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copyu of the judgement ?
4	Whether this case involves a substantial question of law as to the interpretation of the constituition of India, 1950 of any order made thereunder ?
5	Whether it is to be circulated to the civil judgte ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Petitioner(s)

Versus

KAYAM MOHMED A SIRMANI - Respondent(s)

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Appearance : MR HARDIK C RAWAL for Petitioner No(s).:

1. RULE UNSERVED for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE MR SHAH

Date : 14/06/2005

ORAL JUDGMENT

In this petition under Article 227 of the Constitution of India the petitioner, Gujarat State Road Transport Corporation has challenged the legality and validity of the Judgment and Award passed by the Labour Court, Amreli, dated 2nd August 2004 in Reference (LCA) No. 5 of 2002 by which the Labour Court, Amreli has directed the petitioner to reinstate the

respondent workman without backwages and further imposing penalty of withholding of two increments with future effect.

2. It appears from the record that departmental inquiry was initiated against the respondent workman on an allegation that on 18.9.1998 when he was on duty on Gundarn to Savarkundla route he left the bus midway near Liliya police station and did not complete the trip, and on the next day when the respondent workman was given a different route he misbehaved with the officer concerned; gave threats; insisted that he will be performing his duty only on the earlier route; and forcibly taken the Bus No. 2812 to platform. After completion of departmental enquiry an order came to be passed dismissing the respondent workman from service by order dated 11.6.1999. That industrial dispute was raised and the matter was referred to the Labour Court, Amreli, and the Labour Court, Amreli, exercised discretion under Section 11A of the Industrial Disputes Act and modified the order of dismissal by directing the petitioner to reinstate the respondent workman without backwages and imposed penalty of withholding two increments with future effect.

3.Shri Hardik Raval, learned advocate appearing on behalf of the petitioner has vehemently submitted that in the facts and circumstances of the case the Labour Court could not have passed the order of reinstatement of respondent workman by showing mispleased sympathy. It is submitted that when the departmental enquiry is held to be legal and valid and charges are proved against the respondent-workman the Labour Court ought not to have passed the order of reinstatement.

4. I have gone through the judgement and award passed by the Labour Court at Amreli. On appreciation of evidence and consideration of past record and in the facts and circumstances of the case, the Labour Court has exercised jurisdiction under Section 11A of the I.D. Act and has exercised discretion in favour of the respondent workman. The respondent workman was out of service from 1999 and the Labour

Court has passed the order denying backwages to the respondent workman and further imposed punishment of withholding of 2 increments with future effect. It is required to be noted that during the pendency of the present Special Civil Application the respondent workman has expired. In view of the peculiar facts and circumstances of the case, interference of this Court by exercising power under Article 227 of the Constitution of India is not warranted. Hence, the present Special Civil Application is dismissed. Rule is discharged.

[M.R. Shah, J.]

rmr.